COURT NO.2

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition (S/S) 321/2001
(Old No. 13976 / 1993)

Jagdish Chandra Papnai,
S/o Sri Dharamanand,
Through Sri B.D. Pandey,
Upreti Khola, Almora,
At present,
P.C. Operator/Computer Assistant,
Jalagam Prabandh Nideshalaya,
Indira Nagar, Forest Colony,
Dehradun.

.....Petitioner

Versus

1. Chief Project Director,
   Watershed Management Directorate
   (Jalagam Prabandh Nideshlaya),
   Indira Nagar, Jalagam Colony,
   Dehradun.
2. State of U.P.

.....Respondents

Sri B.D. Upadhayay, learned Counsel for the petitioner.
Sri H.M. Raturi, learned Standing Counsel for the respondent no.1.

12th December, 2007

Hon'ble P.C. Verma, J.

By means of this writ petition, the petitioner has prayed for a writ of Certiorari to quash the order dated 21.2.1993 and has further prayed for a writ of Mandamus commanding the respondents to allot the duty to the petitioner and not to interfere in the working and to regularize him on the same post.

2. I have heard learned Counsel for the parties and perused the record.

3. Petitioner was appointed on the post of P.C. Operator/Computer Assistant in Watershed Management, which was a project funded by the World Bank. The petitioner was given appointment initially for a fixed period which was extended from time to time for a fixed tenure. A perusal of the appointment letter and extension letters clearly reveals that his appointment was purely on contractual basis under the project. When the project came to an end and all sanctioned posts were abolished since the World Bank on whose assistance the scheme was started has not further extended the relief, the appointment of the petitioner which was purely on contractual basis automatically came to an end. Therefore, the termination order is consequential. The services of the petitioner have been terminated since the petitioner's appointed was only till the tenure of the scheme and after the scheme has elapsed, the petitioner cannot claim any right of employment on any other post in the Department.

4. Reliance is placed on the decision of the Hon'ble Apex Court in *Delhi Development Horticulture Employees'* Union V. Delhi Administration reported in **(1992) 4 SCC 99,** which clinches the issue. It was a case of temporary employment provided to the petitioners therein under the Jawahar Rozgar Yojna. It was held as under :

> **"To get an employment under such scheme and to claim on the basis of the said employment, a right to regularization, is to frustrate the scheme itself. No court can be a party to such exercise. It is wrong to approach the problem of those employed under such schemes with a view to**

providing them with full employment and guaranteeing equal pay for equal work. These concepts, in the context of such schemes are both unwarranted and misplaced. They will do more harm than good by depriving the many of the little income that they may get to keep them from starvation. They would benefit a few at the cost of the many starving poor for whom the schemes are meant. That would also force the State to wind up the existing schemes and forbid them from introducing the new ones, for want of resources."

5. I am of the considered opinion that when the posts temporarily created for fulfilling the needs of a particular project or scheme limited in its duration come to an end on account of the need for the project itself having come to an end either because the project was fulfilled or had to be abandoned wholly or partially for want of funds, the employer cannot by a writ of mandamus be directed to continue employing such employees as have been dislodged because such a direction would amount to requisition for creation of posts though not required by the employer and funding such posts though the employer did not have the funds available for the purpose.

6. For the reasons recorded above, the petition is devoid of merit and is dismissed accordingly. Interim order, if any, shall stand vacated. No order as to costs.

(P.C. Verma, J.)

Prabodh